

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JARED W. ROARK,

Plaintiff,

v.

JERRY DYER, *et al.*

Defendants.

Case No. 1:23-cv-1550 JLT CDB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING THE
ACTION WITHOUT PREJUDICE, AND
DIRECTING THE CLERK OF COURT TO
CLOSE THIS CASE**

(Doc. 15)

Jared W. Roark initiated this action seeking to hold several individuals—including Jerry Dyer, the Major of the City of Fresno; Margaret Mims, the former Fresno County Sheriff; Manny Sandoval; and Blain Sullivan, a public defender—liable for violations of his rights. (Doc. 1.)

The magistrate judge screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A(a) and found he failed to state a claim upon which relief may be granted. (Doc. 13.) Plaintiff was granted an opportunity to file either an amended complaint or notice of voluntary dismissal. (*Id.* at 3-4.)

After Plaintiff failed to respond to the Court’s order, the magistrate judge recommended the action “be dismissed without prejudice for Plaintiff’s failure to obey court orders and failure to prosecute.” (Doc. 15 at 4.) In finding terminating sanctions were appropriate, the magistrate judge considered the factors identified by the Ninth Circuit in *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986), and found the factors weighed in favor of dismissal. (*Id.* at 2-4.) The Court served the Findings and Recommendations on Plaintiff and notified him that any objections

1 were due within 14 days. (*Id.* at 4.) The Court advised him that the “[f]ailure to file objections
2 within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson v.*
3 *Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).)

4 After the Findings and Recommendations were served, Plaintiff filed a motion for a status
5 update, which was granted by the Court. (Docs. 15, 18.) The magistrate judge summarized the
6 procedural history in this action, including the recommendation for dismissal. (Doc. 18 at 2.)
7 However, the magistrate judge noted that Plaintiff’s most recent filings indicated he was at
8 Atascadero State Hospital, and the prior documents of record were served to the address of record
9 at CSP- Corcoran. (*Id.*) Therefore, the magistrate judge indicated he would hold the Findings
10 and Recommendations in abeyance for 30 days, for Plaintiff to file: (1) objections, (2) an
11 amended complaint, or (3) a notice of voluntary dismissal. (*Id.*) The Clerk of Court was directed
12 to serve the order to both addresses at Atascadero State Hospital and CSP-Corcoran. Plaintiff did
13 not file objections or otherwise respond to the Court’s order, and the time to do so expired.

14 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
15 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
16 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 17 1. The Findings and Recommendations dated February 29, 2024 (Doc. 15) are
18 **ADOPTED** in full.
- 19 2. This action is **DISMISSED** without prejudice for Plaintiff’s failure to obey court
20 orders and failure to prosecute; and
- 21 3. The Clerk of Court is directed to close this case.

22
23 IT IS SO ORDERED.

24 Dated: May 17, 2024


UNITED STATES DISTRICT JUDGE